

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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DESHAWN L. THOMAS,

Case No. 2:18-cv-00020-GMN-PAL

Petitioner,

ORDER

v.

BRIAN WILLIAMS, et al.,

Respondents.

This action is a petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by Nevada state prisoner Deshawn L. Thomas. On May 17, 2022, the parties filed a joint stipulation regarding Thomas' proposed third-amended petition and a stay and abeyance (ECF No. 54). Thomas had recently filed a motion for leave to file a third-amended petition (ECF No. 52). In the stipulation, respondents provide written consent to the filing of the third-amended petition (ECF No. 54, p. 2). See Fed. R. Civ. P. 15(a)(2) (allowing amendment "with the opposing party's written consent or the court's leave"); see also *Ramirez v. Cty. of San Bernardino*, 806 F.3d 1002, 1007 (9th Cir. 2015).

The parties also stipulate that a stay pursuant to *Rhines v. Weber*, 544 U.S. 269 (2005), is appropriate so that Thomas can return to state court and litigate two new, unexhausted grounds. The new claims involve allegations that a key State's witness falsely testified against Thomas and that the State suppressed impeachment evidence

1 with respect to that witness (ECF No. 52-1, pp. 32-35). Thomas asserts that the claims
2 are potentially meritorious and that he is not engaging in intentionally dilatory tactics.
3 Respondents indicate that while they reserve the right to litigate the merits of the new
4 claims in the future, they agree that a stay is warranted.
5

6 Finally, the parties ask the court to dismiss respondents' pending motion to
7 dismiss without prejudice to respondents' filing a new motion to dismiss at a later date
8 when the case is reopened. Good cause appearing, the stipulation is granted.

9 **IT IS THEREFORE ORDERED** that the joint stipulation (ECF No. 54) is
10 **GRANTED**.

11 **IT IS FURTHER ORDERED** that petitioner's motion for leave to file a third-
12 amended petition (ECF No. 52) is **DENIED** as moot.
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14 **IT IS FURTHER ORDERED** that the Clerk of Court detach and file the third-
15 amended petition at ECF No. 52-1.

16 **IT IS FURTHER ORDERED** that respondents' motion to dismiss (ECF No. 35) is
17 **DISMISSED** without prejudice.

18 **IT IS FURTHER ORDERED** that respondents' motion for extension of time to file
19 a reply in support of the motion to dismiss (ECF No. 53) is **DENIED** as moot.
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21 **IT IS FURTHER ORDERED** that this action is **STAYED** pending final resolution
22 of petitioner's state postconviction habeas petition.
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IT IS FURTHER ORDERED that the Clerk **ADMINISTRATIVELY CLOSE** this action, until such time as the court grants a motion to reopen the matter.


GLORIA M. NAVARRO
UNITED STATES DISTRICT JUDGE